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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ABEL GHIRMAI,

11 Plaintiff,

12 v.

13 NORTHWEST AIRLINES, INC., a Minnesota
14 corporation,

15 Defendant.

16 CASE NO. C02-1839RSM

17 ORDER ON MOTION TO CERTIFY
18 ORDER FOR INTERLOCUTORY
19 APPEAL

20 This matter is now before the Court for consideration of defendant's motion to certify an Order
21 for interlocutory appeal. Dkt. # 161. On March 10, 2009, the Court denied defendant's motion to strike
22 plaintiff's jury demand. Dkt. # 160. Defendants now assert that the issue of a jury trial for plaintiff's
23 employment discrimination claim should be certified by the Court for interlocutory appeal. The trial is set
24 to begin on April 27, 2009.

25 The district court has discretion to certify an order for interlocutory appeal when there is
26 “substantial ground for difference of opinion” and an immediate appeal “may materially advance the
27 ultimate termination of the litigation.” 28 U.S.C. § 1292(b). In the Order which defendants seek leave to
28 appeal, the Court acknowledged that those courts which have addressed the question presented
here—namely whether an employment discrimination or civil rights claim is a “personal injury tort” within
the meaning of 28 U.S.C. § 157(b)(5)—are split on the issue. Dkt. # 160, p. 2. However, the Court also

29 ORDER ON MOTION - 1

1 noted that the more recent cases indicate a trend toward finding that civil rights violations and
2 discrimination claims do constitute personal injury torts, and the Court adopted this as the better view.
3 *Id.*, p. 3-4. The Court therefore finds that the basis for a difference of opinion on this issue is not
4 sufficiently “substantial” to warrant the delay that would be caused by certifying the question for
5 interlocutory appeal. Nor would the ultimate termination of the litigation be materially advanced by
6 postponing the trial.

7 Defendant’s motion to certify the Order for interlocutory appeal is accordingly DENIED.
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9 DATED this 31 day of March 2009.
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12 RICARDO S. MARTINEZ
13 UNITED STATES DISTRICT JUDGE
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